

Summary of Comments Received By The Innovations Task Force

March through May 1999

Encouraging Improved Performance

Encourage stewardship: Many stakeholders agreed that compliance alone should not be the end goal for environmental management. We can and should do more. Specifically, we should encourage environmental stewardship, where everyone—individuals, communities, and companies—takes more responsibility for their actions. Fostering stewardship needs to be interdisciplinary, taking social, economic, and other issues into account. It will require a different approach than enforcement.

Recognize top performers or improved performance: Many stakeholders urged EPA to establish programs for regulated facilities that go beyond compliance with environmental requirements. Suggestions ranged from a voluntary program recognizing sound performance, based on a set of specific criteria, to “case-by-case” actions for the truly outstanding performers. Some stakeholders felt that the former, a program with broader applicability, would be well-received and a step in the right direction. Others felt this would be neither bold nor effective enough. They felt that focusing on the top performers would allow EPA to offer more meaningful incentives and make participation more attractive. It would also help to create new leaders that others could follow. They suggested bench marking performance levels in facilities that are already widely recognized as top performers as a way to get started quickly.

They also felt that criteria for defining exceptional performance should be multimedia, emphasize sustainability and include measures such as:

- Public disclosure
- Public involvement
- How well a company addresses particular environmental problems
- Product stewardship
- Mentoring other companies

A number of stakeholders suggested using a “ladder” that recognizes several different performance levels. Those who still have compliance problems would be at the lower level; those with better performance would be higher up; the best would be at the very top. Incentives and assistance could be provided to help organizations move upward.

Incentives: Recognition can be an incentive, especially when it is in the local community and with clients and customers. However, incentives for superior performance are important and these can and should go much further. They could involve such things as fewer compliance inspections, more flexibility in regulatory programs, reduced reporting and monitoring, and tax credits.

Tools for Improving Environmental Performance

Environmental Management Systems (EMSs): Stakeholders identified EMSs as key tools for improving environmental performance. However, they felt that EMSs are just a tool, and to work best, they need to be tailored to industry sectors. They also felt that special attention was needed to help small businesses develop and implement EMSs. This would help overcome a common perception that EMSs are for big companies, not small ones. There are successful examples of tailoring EMSs to smaller business (e.g., printers) and this is an area where EPA can help. Stakeholders also explained that EMS use would likely increase if insurers, bond raters and others were encouraged to use a company’s EMSs when evaluating their performance.

Some stakeholders were sensitive about the role that EPA should take in promoting EMSs. Many states and business already are using EMSs, and they felt the Agency should not try to step into the leadership roles established by others. EPA's role should be to promote their use, support their development, evaluate their effectiveness, and make recommendations on how to improve them. Conversely, others felt EPA should play a more active role in EMS development and testing.

Integrating environmental and business decisions: Stakeholders noted many other tools that could also help businesses account for environmental impacts and make more cost effective decisions. These tools include: life-cycle analysis, full cost accounting, product stewardship and product “take-back” programs, industrial ecology, etc. They thought EPA should help develop these tools, and support business assistance networks that help companies use them.

Voluntary programs: Stakeholders emphasized that voluntary programs can help companies and individuals address unsolved environmental problems. These programs can encourage stewardship in several ways, such as by offering technical or financial assistance, or by providing public recognition for environmental actions. There were suggestions for new voluntary programs to address certain issues, such as reducing use of persistent bioaccumulative and toxic chemicals, reducing nutrient loadings into watersheds, implementing innovative air quality improvement projects, and improving labeling and creating awards for environmentally friendly products.

Apply lessons from successful pilots: Our stakeholders emphasized that when an innovation proves successful in a pilot project, we need to move quickly to institute the innovation more broadly. EPA has tried new approaches through its reinvention programs, such as developing flexible permits and working with specific industry on sector-based environmental management approaches. Where successful, they felt the Agency should expand use of new approaches or integrate them into existing programs so that benefits can be realized on a wider scale.

Market-based or economic incentives: Some stakeholders emphasized the potential of market-based approaches for addressing problems. For example, effluent trading in watersheds is one way to help address nonpoint source pollution.

Promoting Compliance

Improved regulations: Some suggestions for improving our regulations were:

- *Continue to use plain language.* Plain language is important because it helps people understand what they need to do and increases their ability to comply. Stakeholders felt that if EPA can do a better job in this area, there would be less need for additional compliance assistance materials, because the requirements would be clear. They also suggested that we provide flowcharts and checklists along with rules so applicability and requirements can be determined more easily.
- *Develop more performance-based regulations.* There were a number of specific suggestions for more regulatory changes that would increase flexibility in meeting permit limits, especially in meeting air requirements.
- *Promote sector-based rulemaking.* Through the Common Sense Initiative and other reinvention efforts, EPA has seen benefits from tailoring environmental management strategies for specific industry sectors. EPA should use this approach more in rulemaking so that regulations are more effective at addressing problems associated with specific industries.
- *Provide more openness during rulemaking and pilot-test rules prior to issuance.* This will allow the regulation writers to receive input from front line agency staff and from people in companies and communities. In this way, EPA can help assure that new requirements are understandable and doable.

Permitting, monitoring, and reporting reforms: A number of stakeholders urged EPA to build on its successful initiatives to reduce regulatory burden. Specifically, they called for more efforts to consolidate monitoring and reporting. To further reduce burden, they also encouraged more use of electronic reporting. On permitting, they suggested a number of specific projects from testing permit reforms developed through the Common Sense Initiative (PrintSTEP), to one-stop permitting, to sector-based permits. They also had media-specific suggestions, such as expanding the Pollution Prevention in Permitting Program (for air emissions).

Compliance assistance: Stakeholders explained that we need to do a better job of providing compliance assistance. They had many ideas about how we could do so. Some of these were:

- Develop compliance assistance materials and tools that are targeted to the needs of the regulated parties. EPA should prepare these materials along with regulation development so that more consideration is given to how the new requirements will actually be met. This approach would allow the Agency to develop assistance materials that are more timely and helpful.
- Coordinate with industries and their trade associations to develop materials that work well for the people who will use them.
- Ensure that EPA inspectors and the regulated facilities use the same inspection checklists.
- Continue to build on traditional approaches for providing assistance, including the existing compliance assistance centers. But also provide more help for small businesses who often have fewer resources to deal with environmental issues than larger companies.
- Use electronic tools (such as the Internet and computer software programs), but don't rely too heavily on them. Gear these tools to the front line, shop floor people who are most likely to use them.
- Turn to other assistance providers to deliver compliance assistance. There are existing networks of organizations (such as local governments, state agencies, universities, non-profits, trade associations, small business and technology assistance centers) that all have frequent interactions with businesses. Businesses prefer to go to them for help with compliance issues rather than dealing with EPA. EPA should be a "broker" rather than a "retailer" for compliance assistance materials. In other words, the Agency should develop materials and make them available, but let others actually deliver them to the regulated community.

- Use existing assistance networks and compliance assistance materials to deliver pollution prevention assistance as well. Also, keep in mind that many of these providers are ideal for delivering additional tools for integrating environmental and business decision-making.
- Deliver compliance assistance separately from enforcement, so that companies build some trust in working with those who offer assistance.
- Revise EPA's Audit Policy, Small Business Policy and penalty mitigation protocol to give people more incentives to self-disclose and correct environmental violations.
- Continue to measure the effectiveness of EPA's compliance assistance activities to see what is working well.
- Integrate compliance assistance with incentives, monitoring and enforcement to address specific environmental priorities.

Cross-Cutting Issues

Information management: A number of comments dealt with information-related issues. Some suggested that making data about the environmental performance of specific facilities more user-friendly and accessible would be a strong incentive for corporations to improve or maintain high standards. Others suggested that EPA needs to do more to integrate data about ecological conditions, individual facilities, and other issues so people can gain a more complete understanding of factors influencing conditions at the watershed, ecosystem or community level.

Still others felt that Agency databases should be designed so that state and EPA staff can input and update data more easily.

Support for community-based activities: Stakeholders spoke about how communities and citizens want and need EPA to deliver information and technical assistance that will help them use environmental data and participate in environmental decision-making. In particular, some stakeholders urged EPA to provide additional support and tools to help local governments address urban sprawl.